

REMARKS**STATUS OF THE CLAIMS**

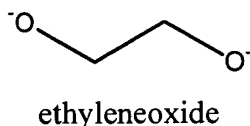
Claims 22, 23, 26, 32, 35, 36, 38, 43, 45, 46, 51-54, 64-77, 79-82, 84, 86, 89, and 99-133 were pending in the present application. Claims 22, 23, 26, 32, 35, 36, 38, 43, 45, 46, 51-54, 65, 81, 82 and 98 were withdrawn from consideration. The Examiner withdrew claims 64, 66-77, 79-80, 84, 86, 89, 99-105, and 129-133 in the Office Action dated March 9, 2005. By virtue of this response, claim 112 has been cancelled; claims 22, 32, 36, 38, 45, 51, 52, 64, 68, 80-82, 99, 100, 106, 108, 111, 115-118 and 128 have been amended; and new claims 134-156 have been added. Accordingly, claims 22, 23, 26, 32, 35, 36, 38, 43, 45, 46, 51-54, 64-72, 79-82, 84, 86, 98-105, and 129-133 are withdrawn. Claim 112 is cancelled. Claims 106-111, 113-128 and new claims 134-156 are currently under consideration.

With respect to all amendments and cancellations, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiments in future continuation and/or divisional application. No new matter has been added by the new or amended claims.

CLAIMS WITHDRAWN IN FINAL OFFICE ACTION

The Examiner has withdrawn claims 22, 23, 26, 32, 35, 36, 38, 43, 45, 46, 51-54, 64-77, 79-82, 84, 86, 89, 99-105, 129-133 as being directed to an invention that is independent or distinct from the invention originally claimed. The Examiner's basis for withdrawing these claims is that the previously presented claims were directed to a conjugate comprising a valency platform molecule having no structural limitations whereas the withdrawn claims are directed to a conjugate comprising a valency platform molecule comprising structural limitations such as an ethylene glycol moiety and a specific molecular weight. Applicants respectfully disagree and request examination of the withdrawn claims listed above together with the currently examined claims.

As an initial matter, the withdrawn claims recite the term “ethyleneoxide” and not the term “ethylene glycol” as suggested in the final Office Action. The term “ethyleneoxide” (as opposed to ethylene oxide, C₂H₄O) is used to depict a structure of the formula:



as confirmed by a commonly used structural drawing program, ChemDraw Ultra[®] version 6.0.2. Accordingly, the arguments presented herein use the term ethyleneoxide as recited in the claims and depicted by the structure above.

First, the previously pending claims were not directed to a conjugate comprising a valency platform molecule without structural limitations, as suggested. For example, among the various structural limitations recited in all of the previously pending claims (e.g., branching groups, attachment sites), previously pending claim 64 and its dependent claims recite “a moiety of the formula -OCH₂CH₂O-.” The phrase was first introduced to the claims when claim 64 and the dependent claims were added by amendment on January 1, 2004. Contrary to the Examiner’s position, the previously presented claims did recite structural limitations for the valency platform molecule.

Previously presented claims reciting the structural limitation -OCH₂CH₂O- have been under examination since January 2004. However, despite the structural limitations present in both the previously presented claims and the currently withdrawn claims, the currently withdrawn claims have been removed from examination for allegedly being directed to an independent or distinct invention from that which was originally presented. Applicants strongly disagree with the Examiner’s reasoning and conclusions based thereon because the previously pending claims recite structural limitations, some of which are the same limitations recited in the withdrawn claims.

For the reasons presented above, Applicants respectfully request reconsideration of the withdrawal of claims 22, 23, 26, 32, 35, 36, 38, 43, 45, 46, 51-54, 64-77, 79-82, 84, 86, 89, 99-105, 129-133 and seek their examination together with currently examined claims.

CLAIM AMENDMENTS AND ADDITIONS

Claims 22, 64, 106 have been amended to recite $\text{-OCH}_2\text{CH}_2\text{O-}$ as explained in the section immediately above. These amendments are submitted to expedite prosecution by limiting the number of issues during prosecution.

Claim 32 has been amended to recite biologically active molecules in plural form and to amend the dependency.

Claim 45 has been amended to recite biologically active molecules in plural form. It has also been amended to recite “at least” and this amendment is accompanied by the addition of **claim 135**, which recites the same claim, but replaces “at least” with “about” and dependent on claims 22, 64 or 106. This amendment is submitted to expedite prosecution by limiting the number of issues during prosecution. Similar amendments were made for **claims 108 and 128**. Claim 45 was also amended to be singly dependent and **claim 156** has been added to recite the same limitations as claim 45, but dependent on claims 64 and 106.

Claims 80-82 and 111 were amended to recite new dependencies.

Claims 99, 100 and 115-117 have been amended to recite linkers derived from, e.g., a thio-6 carbon chain phosphate or a thio-6 carbon chain phosphorothioate. These amendments clarify the feature that although the linker molecule is, e.g., a thio-6 carbon chain phosphate or a thio-6 carbon chain phosphorothioate, when incorporated into the conjugate, the linker is derived from these groups.

Claim 118 has been amended to recite “bound to” to indicate that the moiety is bound to the polynucleotide.

Claims 134, 135 and 136 were added as noted above and correspond to claims 108, 45 and 128, with the exception that the phrase “at least” in claims 108, 45 and 128 has been replaced by “about” and additional dependencies were added.

Claim 137 has been added to recite a single stranded polynucleotide. Support for this claim may be found e.g., page 22, line 29 to page 23, line 4.

Claim 138 has been added and recites branching groups. Support for this claim may be found, e.g., on page 19, lines 14-19.

Claim 139 has been added and recites a pharmaceutical carrier. Support for this claim may be found, e.g., on page 29, lines 25-30.

Claims 140, 141 and 142 have been added and recite methods of making the composition comprising a linker. Support for these claims may be found, e.g., on page 28, lines 24-26, Example 3 on page 79 and Table 1, page 80.

Claim 143 has been added to recite the same limitations as claim 32, but dependent on claim 64. **Claim 32** has been amended to avoid redundancy in view of claim 143.

Claims 144-147 have been added to recite the same claims as claims 36, 38, 51 and 52, but as singly dependent claims. **Claims 36, 38, 51 and 52** have been amended to avoid redundancy in view of claims 144-147.

Claim 148 has been added to recite the same claim as claim 68, but as a singly dependent claim. **Claim 68** has been amended to avoid redundancy in view of claim 148.

Claims 149-150 have been added to recite methods of making a composition comprising a linker molecule. Support for these claims may be found, e.g., at page 9, lines 8-14; page 22, line 29-34; Example 3 on page 79; Table 1 on page 80 and the Examples.

Claims 151-153 have been added to recite compositions comprising polynucleotides having the claimed binding activity. Support for claims 142-146 may be found, e.g., on page 9, lines 1-8.

Claims 154-155 have been added to recite compositions comprising a pharmaceutically acceptable carrier. Support for claims 145-146 may be found, e.g., on page 10, lines 33-35 and on page 29, lines 25-30.

REJECTIONS UNDER OBVIOUSNESS-TYPE DOUBLE PATENTING

Applicants acknowledge with thanks the Examiner's withdrawal of the previously imposed obviousness-type double patenting rejections over U.S. Pat. No. 6,060,056, U.S. App. Serial No. 09/753,350 and U.S. App. Serial No. 09/590,592. The remaining rejections under this doctrine are addressed below.

Claim 106 Over Claim 1 of U.S. Patent No. 5,276,013

Claim 106 is rejected over claim 1 of U.S. Patent No. 5,276,013 under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully traverse the rejection of claim 106 over claim 1 of U.S. Patent No. 5,276,013. Claim 1 of U.S. Patent No. 5,276,013 ("the '013 patent") recites a conjugate of a biologically stable valency platform molecule and a multiplicity of polynucleotide duplexes. Claim 1 of the '013 patent does not suggest conjugates comprising the structural characteristics recited in claim 106 of the present application because there is no suggestion in claim 1 of the '013 patent of a conjugate comprising polynucleotides bound to a valency platform molecule comprising the structural characteristics recited in claim 106, including an ethyleneoxide moiety, branching groups derived from a diamino acid, triamine or amino diacid, and a valency provided by four or more attachment sites located at termini of the valency platform molecule. The specific structural characteristics recited in claim 106 render it patentably distinct from claim 1 of the '013 patent.

This ground for rejection was imposed in the previous Office Action with respect to claim 64. Although the rejection is now imposed against claim 106 for the first time, in the remarks that follow, Applicants refer to the previous Office Action because the present rejection appears to be a continuation of the arguments that were originally presented in connection with the rejection of claim 64 (currently withdrawn), only now applied to claim 106.

The previous action noted the valency platform molecule depicted at the top of columns 17 and 18 of the '013 patent. The rejection thus appears to be based on the premise that a single example (1) which is disclosed in the specification of an earlier filed patent, (2) which is within the scope of a broad claim of the earlier filed patent, and (3) which is not otherwise suggested by the broad claim of the earlier filed patent, may be used to reject the claim in a later-filed patent application under the doctrine of obviousness-type double patenting. This premise in essence treats a portion of the disclosure of Applicants' '013 patent as prior art against claim 106 of the pending application. However, "when considering whether the invention defined in a claim of an application is an obvious variation of the invention defined in the claim of a patent [under the doctrine of obviousness-type double-patenting], the disclosure of the patent may not be used as prior art." Manual of Patent Examining Procedure, Eight Ed., § 804. The U.S. Court of Appeals for the Federal Circuit has also proscribed the practice of treating the disclosure of an Applicants' earlier filed patent as prior art when it is not, noting that this premise "has repeatedly been held in our precedents to be impermissible." *In re Kaplan*, 789 F.2d 1574, 229 USPQ 678 (Fed. Cir. 1986).

In re Kaplan concerned an issued patent and a subsequent application, where the issued patent contained broad claims and the subsequent application under examination claimed a narrower version thereof. The subject matter claimed in the application under rejection was disclosed and was within the scope of the broad claims of the patent, but was not specifically claimed in the issued patent. In reversing the obviousness type double patenting rejection, the Federal Circuit focused on two main errors: (1) the rejection confused claim domination with obviousness type double patenting, and (2) the rejection had attempted to incorporate the specification of the issued patent into the obviousness double patenting analysis.

In *Kaplan*, the Federal Circuit stated that “there is no way the board could have found appellants’ claimed invention to be an obvious variation of what Kaplan claims except by treating the Kaplan patent as though it were prior art . . . that amounts to using an applicant’s invention disclosure, which is not a 1-year time bar, as prior art against him. That is impermissible.” *Kaplan*, 789 F.2d at 1580. Hence, the Federal Circuit found that (1) it is impermissible to use an example disclosed in the issued patent and within the scope of broad claims of the earlier patent to reject narrower claims in a later patent application for obviousness-type double patenting, and (2) that the correct comparison for an obviousness-type double patenting rejection is to determine if the later set of claims is obvious in view of the earlier-issued claims, even though the later-claims might be within the scope of the earlier-issued claims and even though the issued-claims encompass an example that is disclosed in the specification of the earlier patent and is claimed in the later patent.

Several of the points made in the Examiner’s discussion of *In re Kaplan* are not correct. For instance, the Office Action notes that there is nothing in the Court opinion to indicate recognition of the disclosure of mixed solvents at issue, and that the language of the opinion implies that the issued Kaplan patent does not disclose a solvent mixture. However, it is clear from the court’s opinion that the U.S. Court of Appeals for the Federal Circuit was aware of the mixed solvent that was disclosed, but not claimed, in Kaplan’s earlier filed patent. See, e.g., the Background section of the opinion stating “[t]here are, however, a number of examples of mixed solvents in Table VI of the Kaplan patent specification, particularly Example 45.” Rather than failing to recognize the disclosure of a mixed solvent in Kaplan’s earlier filed patent, the U.S. Court of Appeals for the Federal Circuit noted that “there is adequate support for the “organic solvent” limitation . . . apart from Appellants’ specific mixed solvent invention.” *In re Kaplan*, 789 F.2d at 1580. Thus, *Kaplan* established that it is impermissible to base an obviousness-type double patenting rejection on specific subject matter that is disclosed in an issued patent and within the scope of broader claims of the earlier patent because to do so would be to treat the earlier filed patent as prior art.

No subsequent cases have been identified that call the *Kaplan* analysis or holding into question or otherwise limit the applicable law set forth therein. Contrarily, *Kaplan* continues to be compelling law. See, e.g., *Ex parte Michno*, 38 U.S.P.Q.2d 1211, 1213 (1993), which reiterated the

rational set forth in *Kaplan*. See also, *Slade Gorton & Co. v. Millis*, 794 F.Supp. 175, 177 (E.D.N.C, 1992), which cites to *Kaplan* in discussing that the legal standard for determining obviousness-type double patenting is whether any claim in an application defines an obvious variation of an invention claimed in an earlier filed patent, and noting that "in considering the question, the patent disclosure may not be used as prior art." Accordingly, the standard for determining obviousness double patenting remains that set forth in *Kaplan*.

Similar to *Kaplan*, Applicants' claim 106 of the present application is rejected over claim 1 of the '013 patent and is based on the incorrect rationale that narrow subject matter within the scope of a broader claim that is disclosed in the specification of an earlier-issued patent can be used to reject claims in a later-filed patent application. The notion that examples disclosed in the specification of Applicants' earlier patent provide support for an obviousness-type double patenting rejection of later-filed claims which encompass those examples was rejected by *In re Kaplan*. *In re Kaplan* forbids using the single compound disclosed in the specification of the '013 patent to reject claim 106 of the instant application as being obvious over claim 1 of the '013 patent, because a conjugate of a biologically stable valency platform molecule and a multiplicity of polynucleotide duplexes of at least about 20 base pairs having a significant binding activity for human systemic lupus erythematosus anti ds-DNA autoantibodies does not suggest a conjugate comprising polynucleotides bound to a valency platform molecule having the specific structural characteristics claimed in claim 106, such as branching groups derived from particular compounds, terminal attachment sites and an ethyleneoxide moiety.

Applicants traverse the present rejection of claim 106 over claim 1 of the '013 patent because claim 1 of the '013 patent does not render claim 106 of the present application obvious, and that the rejection is based on an incorrect application of the law. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection of claim 106 over claim 1 of the '013 patent.

Claim 106 Over Claim 9 of U.S. Patent No. 5,552,391

This ground for rejection was imposed in the previous Office Action with respect to claim 64. Although the rejection is now imposed against claim 106 for the first time, the present rejection appears to be the same rejection originally presented in connection with claim 64 (currently withdrawn), only now applied to claim 106.

Claim 106 is rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claim 1 of US. Patent No. 5,552,391. Applicants submit that this issue will be addressed upon obtaining otherwise allowable subject matter.

REJECTIONS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 106-128 are rejected under 35 U.S.C. 112, first paragraph as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection and request withdrawal of the rejection in view of the comments below.

As an initial matter, Applicants have amended claim 106 to recite a valency platform molecule comprising an ethyleneoxide moiety in formulaic terms (i.e., -OCH₂CH₂O-). As noted in the section entitled "Claims Withdrawn in Final Office Action," this claim amendment alone does not alter the scope of the claims because the term ethyleneoxide is commensurate in scope with the structural formula -OCH₂CH₂O-. However, in order to expedite prosecution, Applicants have presented this non-narrowing amendment to address the Examiner's concern regarding the term ethyleneoxide as discussed on page 8 of the Office Action dated March 9, 2004.

Claim 106 is rejected under 35 U.S.C. 112, first paragraph for the recitation of "an ethyleneoxide containing valency platform molecule." The Examiner argues that there is no descriptive support for "any and all VPM's containing ethylene oxide," and that even if such support existed, there is not support for such an ethyleneoxide containing valency platform

molecule in combination with the other structural features such as attachment sites. The Examiner's position is that the text and figures at p. 4, line 30-34, page 19, line 14-page 20, line 9 and reaction schemes at pages 32-34 and 37 do not provide adequate descriptive support for the claimed invention and the claims therefore recite new matter. Applicants respectfully disagree and address each of the Examiner's assertions below in the same order in which they appear in the Final Office Action.

The Examiner's first assertion made in connection with this rejection is that although the disclosure on page 4, lines 30-34 establishes that $[G]_2$ can be $-\text{CH}_2(\text{CH}_2\text{OCH}_2)_r\text{CH}_2-$ wherein r is in the range of zero to 300, if r is zero, the compound does not result in an ethyleneoxide containing molecule. The fact that r can be zero in the specification does not establish that the subject matter of the claims was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The claimed invention is directed to a conjugate formable by the conjugation of a valency platform molecule comprising an ethyleneoxide moiety. The disclosure on page 4, lines 30-34 clearly conveys that the inventors, at the time the application was filed, conceived of valency platform molecules comprising ethyleneoxide because the disclosure lists valency platform molecules comprising the formula $-\text{CH}_2(\text{CH}_2\text{OCH}_2)_r\text{CH}_2-$, wherein r was zero to 300. That is, 298 out of 300 (or 99.3 %) of the valency platform molecules described by the formula at issue would comprise an ethyleneoxide moiety. The disclosure on page 4, lines 30-34 lends support for claims reciting the phrase "an ethyleneoxide-containing moiety" because the citation establishes that the inventors conceived of and described in formulaic terms, the invention set forth in the claims.

Next, the Examiner asserts that if " r " is one or two, that the conjugate would not contain an ethyleneoxide. With respect to " r " being one, Applicants refer the Examiner to the discussion above concerning an " r " equal to zero. That is, the disclosure at page 4, lines 30-34 establish that at the time the application was filed, the inventors conceived of conjugates comprising ethyleneoxide containing valency platform molecules because 298 out of 300 (or 99.3 %) of the valency platform molecules described by the formula at issue comprise an ethyleneoxide moiety.

With respect to when “r” equals two (or more), Applicants disagree with the Examiner’s conclusion that the formula would not comprise ethyleneoxide. As mentioned in the sections above, the term “ethyleneoxide” is used to depict a structure of the formula:



ethyleneoxide

and a chemical drawing program, ChemDraw Ultra[®] version 6.0.2, represents the chemical name “ethyleneoxide” as the above chemical formula. Accordingly, when “r” of the formula – $\text{CH}_2(\text{CH}_2\text{OCH}_2)_r\text{CH}_2-$ is two, the resulting structure (– $\text{CH}_2\text{CH}_2\text{OCH}_2\text{CH}_2\text{OCH}_2\text{CH}_2-$) comprises ethyleneoxide (i.e., – $\text{OCH}_2\text{CH}_2\text{O}-$).

Next, the Examiner states that “[i]n a very simplistic sense, one could argue that, since the term “ethylene oxide” does not appear anywhere in the specification, descriptive support is lacking for the claimed invention for that reason.” However, *ipsis verbis* recitation of claim terms in the specification is not the legal standard by which compliance with the written description requirement of 35 U.S.C. §112 is measured. MPEP § 2163(II)(A). A specification which provides description of the claimed invention such that a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, will have satisfied the written description requirement, “even if every nuance of the claims is not explicitly described in the specification.” *Id.* The Examiner’s assertion that a written description rejection can be maintained due to lack of *ipsis verbis* recitation of the claim terms in the specification is contrary to the applicable law. Further, Applicants conform to the written description requirement as set forth under the applicable law because the specification provides a clear disclosure of the claimed invention in descriptive language, formulae and chemical structures.

The Examiner’s discussion of epoxidation products and the suggested claim term ethyleneglycol is rendered moot by Applicant’s above arguments regarding the term “ethyleneoxide” and its formulaic counterpart, – $\text{OCH}_2\text{CH}_2\text{O}-$ recited in the currently amended claims.

Next, the Examiner contends that page 19, line 14 to page 20, line 9 of the specification is not relevant for support of claim 106 because the only relevant passage is on page 20, lines 7-9. The Examiner further argues that the passage from page 19, line 14 to page 20, line 9 does not reference the other structural features of the claims (branching groups and polynucleotides). Applicants strongly disagree with the Examiner on both points.

First, the entire passage cited (i.e., page 19, line 14 to page 20, lines 7-9) is relevant to the rejected claims because it describes the claimed conjugates by describing: (1) that the valency of a valency platform molecule is determined by the number of branching groups (page 19, lines 14-17); (2) suitable branching groups, including those derived from a diamino acid, triamine or amino diacid as claimed (page 19, lines 19); (3) how the valency platform molecule acts as a polyfunctional substrate to which biologically active molecules are attached (page 19, lines 29-32); (4) that the conjugates may comprise polynucleotide duplexes (page 19, line 31); (5) exemplary molecular weight ranges of the valency platform molecules (page 19, line 33- page 20, line 3); and (6) various moieties of valency platform molecules, each of which comprise an ethyleneoxide moiety (page 20, lines 6-9). The Examiner's conclusion that page 20, lines 7-9 is the only passage relevant to the rejected claims is in error.

The passage at issue also supports the combination of claimed features. For instance, page 20, lines 3-9 recite valency platform molecules as "derivatized" moieties and page 19, lines 14-17 recite that branching groups are "added to" the platform molecules. Accordingly, the application as filed supports a claim reciting moieties derivatized with branching groups. Second, the cited section does make reference to the other structural features of the claimed conjugates, including the particular branching groups as claimed. In view of the actual disclosure at page 19, line 14 to page 20, line 9, it is clear that the claimed features find support in the specification both alone and in combination.

The cited passage's relevance is not limited to the disclosure at page 20, lines 7-9. Rather, it provides a clear disclosure of various aspects of the claimed invention, including a valency platform molecule comprising an ethyleneoxide moiety (page 20, lines 6-9); branching

groups (page 19, lines 19); valency as a function of branching groups (which in turn give rise to attachment sites) (page 19, lines 14-17); and polynucleotides (duplexes are disclosed on page 19, line 31).

Next, the Examiner considers the reaction schemes on pages 32-34 and 37 and asserts that “neither a single specie, not a handful of species, defines a genus.” The Examiner contends that an attempt has been made to create a genus which shares a few of the features of several species which constitutes new matter. However, this is not a case in which Applicants are attempting to extrapolate from a single specie or a handful of species to a genus, as suggested. The citations above and the reaction schemes on pages 32-34 and 37 make clear that no attempt is being made to create a genus from a single specie. As noted above, there is both formulaic and descriptive support for conjugates comprising: (1) ethyleneoxide containing valency platform molecules; (2) branching groups derived from a diamino acid, triamine or amino diacid; (3) valency defined by branching groups and a valency of four (see also page 6, lines 32-34 and page 7, lines 1-2 for support for a valency of four); and (4) polynucleotides. The reaction schemes on pages 32-34 and 37 provide further support for the claims because they depict conjugates such as those contemplated by the inventors at the time of filing and as described throughout the specification.

For the reasons discussed above, Applicants respectfully request withdrawal of the 35 U.S.C. § 112 rejection of claim 106 and the dependent claims thereof

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claim 108 is rejected under 35 U.S.C., second paragraph as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, claim 108 is rejected for the recitation of the phrase “at least about.” In order to obtain claims that preserve the same scope as in originally presented claims, Applicants have amended claim 108 to recite “at least” and have added claim 134 to recite the same claim, but replacing “at least” with “about.” Accordingly, the amendment submitted in claim 108 is made together with the addition of claim 134 and taken together, these claims define the same scope

as in originally presented claim 108. Applicants inform the Examiner that similar amendments were made to claims 45 and 128, although these claims were not rejected for their recitation of the phrase “at least about.”

Claim 112 is rejected for the recitation of the phrase “suitable for reducing antibody levels.” Applicants have cancelled claim 112, rendering this rejection moot.

Claim 126 is rejected for being dependent on a non-elected claim. Applicants disagree with the basis for this rejection, because Applicants are allowed to make amendments or additions to claims which depend from a non-elected (withdrawn) claim.

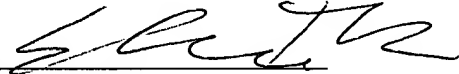
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 252312005704. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: September 9, 2005

Respectfully submitted,

By 

Shannon Reaney

Registration No.: 52,285

MORRISON & FOERSTER LLP

755 Page Mill Road

Palo Alto, California 94304-1018

(650) 813-5744